

## **TOWN OF BROOKFIELD**

### **PUBLIC HEARING**

The legal voters and residents of the Town of Brookfield are hereby notified that the Board of Selectmen will conduct a Public Hearing at the Brookfield Town Hall, Meeting Room 133, on **Monday, July 6, 2015, at 7:00 p.m.**, for the purpose of receiving public comment and opinion concerning proposed modifications to Chapter 83 Quality of Life Ordinance.

Copies of said Ordinance are on file and available for public inspection in the office of the Town Clerk and the Town's website [www.brookfieldct.gov](http://www.brookfieldct.gov).

Dated at Brookfield, CT, this 2<sup>nd</sup> day of June, 2015.

William N. Tinsley, First Selectman

Martin Flynn, Selectman

William R. Davidson, Selectman

Proposed Modifications to Code of the  
Town of Brookfield,  
Connecticut

**CHAPTER 83, QUALITY OF LIFE**

[HISTORY: Adopted by the Board of Selectmen of the Town of Brookfield 11-6-2000.  
Amendments noted where applicable.

General References

Citation Procedure – See Ch. 84.  
Building Construction – Ch. 96.  
**Lead and Lead-Based Paint – Ch. 166**  
**Charter, Article VI, § C6-7.**

**CODE OF THE TOWN OF BROOKFIELD, CONNECTICUT, v27 Updated \_\_\_\_\_,  
2012 / PART II GENERAL LEGISLATION/ Chapter 83, BLIGHTED  
BUILDINGS**

**§ 83-1. Purpose**

It is hereby found and declared that dilapidated, blighted, or deteriorating structures, buildings and premises located within the Town of Brookfield contribute to the decline of neighborhoods, that the existence of such structures, buildings or premises adversely affects the economic well-being of the Town and is inimical to the health, safety and welfare of the residents of the Town.

It is hereby further found that, while certain other remedies presently exist to remediate or abate serious property deficiencies, including blighted conditions, the adoption of this Ordinance has been enabled by State law to permit such remediation and/or abatement of specific and unacceptable property maintenance and/or blighted conditions.

This chapter is therefore enacted pursuant to the authority granted to the Town under C.G. S. § 7-148(c)(7), C.G.S. § 7-148 (c ) (7) (H) (xv), C.G.S. § 7-148-aa, C.G.S. § 7-152c and the CT Public Health Code § 19-13-B25 and pursuant to Ct State Building Code, Sections 115 to 117, 2005 Connecticut Supplement, as amended 2009, all as amended hereinafter.

**§ 83-2. Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

**ABANDONED** – shall mean a building, dwelling or unit which, by any reasonably objective observation, has been relinquished and is vacant.

**BLIGHTED PREMISES** – Any structure, building, or parcel of land (property), including, but not limited to, single family or multi-family residential or commercial/industrial property, whether occupied, abandoned or vacant, which is in such a condition that it poses a serious long-term or immediate danger to the community through risk of collapse, fire or infestation, or which has been declared by the Director of Health as unfit for human habitation, or which otherwise puts at risk the health or safety of the citizens.

Conditions constituting blighted premises include, but are not limited to, the following:

1. It is determined by the Town that existing conditions pose a serious or immediate danger to the community because of a life threatening condition or a condition which puts at risk the health or safety of citizens.
2. The property is not being maintained. The following factors may be considered in determining whether a structure, building or property is not being properly maintained: missing or boarded up windows or doors; a collapsing or missing wall; sagging or collapsed roof or floor; siding that is seriously damaged or missing; fire damaged; a foundation that is seriously damaged or missing; a foundation that is structurally faulty; garbage, trash or abandoned cars situated on the premises.
3. It is, or is becoming, dilapidated or unsafe, as determined by the Building Official.
4. It is an unsafe structure as defined herein.
5. It has attracted illegal activity as determined by the Chief of Police.
6. It is a fire hazard, as determined by the Fire Marshal.
7. It is a factor in materially depreciating property values in the immediate neighborhood, because of its poorly maintained condition.
8. It has become a factor creating a substantial interference with the reasonable and lawful use and enjoyment of other space within a building or structure or of other premises within the neighborhood.
9. It constitutes a threat to the general health, safety or welfare as determined by the Director of Health.

## **BLIGHT PREVENTION PANEL**

The Panel shall consist of the Building Official, Director of Health, Fire Marshal, Zoning Enforcement Officer and the First Selectman.

**BUILDING OFFICIAL** – The Building Official of the Town as defined in C.G.S. § 29-260.

**DILAPIDATED** – shall mean any building or structure, or part thereof, that would not qualify for a Certificate of Occupancy and is deemed an unsafe structure; and any

dwelling or structure, or part thereof, which is designated as unfit for human habitation as defined in the State Building Code, the Fire Code or the Public Health Code.

**DIRECTOR OF HEALTH** – The Director of Health of the Town as defined in the C.G.S. § 19a-200.

**EXEMPT PROPERTY** – Any building or structure undergoing active remodeling, restoration, repair or renovation, provided that the blighted condition will be corrected thereby and that the exemption period will not exceed one year from the date of receipt by the Blight Prevention Panel of a written complaint.

**FIRE MARSHAL** – The Fire Marshal of the Town as defined in C.G.S. §29-297.

**UNSAFE STRUCTURES** – All structures, or structures with deficient existing equipment or fixtures, which have become unsanitary or deficient because of inadequate means of egress facilities, inadequate light or ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, or which are not secured against entry.

**ZONING ENFORCEMENT OFFICER** – The Zoning Enforcement Officer as defined in the Brookfield Town Charter, Ordinance VI, §C6-1 (A).

### **§ 83-3. Creating or Maintaining Blighted or Dilapidated Premises or Unsafe Structures Prohibited.**

No owner, agent, tenant or person in control of real property shall cause blighted or dilapidated premises, whether occupied or not, or unsafe structures to be created or maintained within the Town of Brookfield.

### **§ 83-4. Enforcement.**

#### **Determination of Violation.**

A. Upon receiving a written complaint of a possible violation signed by a complainant, the matter may be referred to the proper town official for appropriate action within that official's jurisdiction and authority. If a matter is proper for review by the Blight Prevention Panel, then the Panel shall make an investigation. The Panel may also initiate the procedures set forth in this Ordinance in the absence of a complaint.

B. If after investigation, a probable violation is found to exist, the Blight Prevention Panel shall serve written notice upon the Owner/Occupant of the premises where the probable violation exists. The notice shall be sent in the manner prescribed to the last known address of each Owner/Occupant. A copy of such notice shall also be sent to the Chief of Police.

C. Such notice shall state the probable violation and the conditions evidencing such violation and require the persons to whom it is delivered to attend a hearing before the Blight Prevention Panel to determine whether there has been a violation and, if so, to establish a plan for abatement of such violation, including the date by which such violation shall be fully abated. The notice shall also include the date, time and location of the hearing. A copy of the notice shall also be mailed to the complainant, if applicable.

D. The Blight Prevention Panel shall hold a hearing within thirty (30) calendar days of the date of the notice provided in Paragraph B. At the hearing, all persons notified shall be given the opportunity to present evidence on the question of whether a violation of this Ordinance has occurred. The Panel or parties notified may call witnesses to present evidence.

E. If the Owner/Occupant who received the notice fails to appear, the Blight Prevention Panel may, nevertheless, determine whether a violation has occurred, provided the Panel has made a finding that notice was properly served.

F. After the hearing, the Blight Prevention Panel shall make a written determination of whether a violation exists. If the Blight Prevention Panel determines that a violation exists, it shall include in its written determination the actions to be taken to abate such violation and a reasonable deadline date by which such violation shall be fully abated.

G. If the Blight Prevention Panel determines that no violation has occurred, no further action as to that complaint shall be taken and the Blight Prevention Panel shall serve written notice that no further action as to that complaint shall be taken, to the Owner/Occupant of the premises where the possible violation existed.

H. Whenever, in the judgment of the Director of Health, an emergency exists, which requires immediate action to protect the public health, safety or welfare, an order may be issued, without hearing or appeal, directing the owner, agent, tenant or person in control of any blighted, unsafe or dilapidated premises to take such action as is appropriate to correct or abate the emergency situation. If circumstances warrant, the Director of Health may immediately act to correct or abate such emergency in accordance with statutory authority.

**Special Consideration.** Special consideration may be given to those who require it in order to correct a violation of this Ordinance. Specifically, the Blight Prevention Panel may grant an Owner/Occupant additional time to correct a violation where the Owner/Occupant, or a person acting on their behalf, establishes good cause. As used in this section "good cause" includes, but is not limited to, an elderly individual who is unable to personally correct a violation due to his or her age; a disabled individual who is unable to personally correct a violation due to his or her disability; or an Exempt Property as defined in this Ordinance. In determining whether good cause exists, the Blight Prevention Panel shall consider whether other occupants of the premises are able to assist in correcting the violation in a timely fashion and whether the severity of the violation is such that additional time is not warranted.

**Notice of Violation.** Upon the determination by the Blight Prevention Panel, in accordance with paragraph F, that a violation of this Ordinance exists, the Blight

Prevention Panel shall serve a written notice of violation upon the Owner/Occupant and shall simultaneously send to each lien holder of the subject property a copy of the notice of violation. The notice of violation shall state (i) the violation; (ii) the actions to be taken to abate such violation and the date upon which the violation shall be remedied; (iii) that the failure of the Owner/Occupant to remedy the violation within the prescribed time shall result in the issuance of a citation in accordance with this Ordinance; (iv) the amount of the daily civil penalties and any other fines or penalties imposed pursuant to this Ordinance or as authorized by statute; and (v) that if the Owner/Occupant fails to remove, abate or remedy the violation, the Town may cause the remediation of the violation at the expense of the Owner/Occupant.

Delivery of the notice of violation to the Owner/Occupant shall be by one or both of the following methods:

- 1) By personal delivery to the Owner/Occupant; or
- 2) By certified mail, return receipt requested and simultaneously by regular U.S. Postal Service mail, addressed to the Owner/Occupant at their last known address.

**Extensions.** The Blight Prevention Panel may grant, for good cause shown, extensions of time for the holding of the hearing or to remediate the violation.

**Penalties.** Violations of the provisions of this Ordinance shall be punishable by a civil penalty equal to the greater of \$100 or the maximum amount allowed by C.G.S. § 7-148(c)(7)(H)(xv), as the same may be amended from time to time, for each day a violation exists and continues beyond the date required for remediation set forth in the notice of violation, or as extended by the Panel.

Violators will also be responsible for all costs and expenses associated with enforcement and the collection of any civil penalties, which shall include, but shall not be limited to, attorney fees, court costs, mailing costs and filing fees.

**Issuance of Citations.** A member of the Blight Prevention Panel shall issue a citation when a violation of this Ordinance continues beyond the date by which the Blight Prevention Panel required that the violation be remedied.

The citation shall state:

- (i) A description of the violation.
- (ii) The amount of the daily civil penalties levied and that such civil penalties shall be levied from the date of the citation, plus such other fines, penalties, costs and/or fees due.
- (iii) That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within ten (10) business days of the date of the citation.
- (iv) That the Owner/Occupant may contest his/her liability before a Citation Hearing Officer by delivering in person or by mail within ten (10) business days of the date of the citation a written demand for a hearing.
- (v) That if the Owner/Occupant does not demand a hearing, an assessment and judgment shall be entered against him/her and that such judgment may issue without further notice.

- (vi) That the Town shall file a lien against the real estate in accordance with C.G.S. §7-148aa for the amount of any unpaid civil penalties or other fines, costs and/or fees imposed by the Town in accordance with this Ordinance.

Delivery of the citation shall be by the manner provided herein for service of the Notice of Violation. A copy of the citation shall simultaneously be sent to each lien holder of the subject property.

**Uncontested Payment; Time Period.** Any Owner/Occupant receiving a citation shall be allowed a period of ten (10) business days from the date of the citation to make an uncontested payment of the civil penalties, fines, costs and/or fees specified in the citation. All amounts shall be made payable to the Town.

**Payment of Civil Penalties.** If the Owner/Occupant who has been issued a citation pursuant to this Ordinance wishes to admit liability for any alleged violation, the Owner/Occupant may, without requesting a hearing, pay the full amount of the civil penalties, fines, costs and/or fees to the Blight Prevention Panel. Such payment shall be inadmissible in any subsequent proceeding, civil or criminal, to establish the conduct of such Owner/Occupant or other person making the payment.

Any Owner/Occupant who does not deliver or mail payment or a written demand for a hearing within ten (10) business days of the date of the citation, shall be deemed to have admitted liability, and the Blight Prevention Panel shall certify to the Citation Hearing Officer that such Owner/ Occupant has failed to respond. The Citation Hearing Officer shall thereupon enter and assess the civil penalties, fines, costs and/or fees provided for by this Ordinance and shall follow the procedures set forth in this Ordinance.

#### **Hearing Procedure for Citations.**

- A. Citation Hearing Officers are appointed in accordance with Brookfield Ordinance section 84-3.
- B. An Owner/Occupant who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) calendar days, nor more than thirty (30) calendar days, from the date of mailing of the citation notice, provided the Citation Hearing Officer shall grant, upon good cause shown, any reasonable request by a party for a postponement or continuance. An original or certified copy of the citation issued by the Blight Prevention Panel shall be filed with and retained by the Town and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of the Blight Prevention Panel member who issued the citation shall be required at the hearing. A member or members of the Panel and/or a designated Town official, other than any Citation Hearing Officer, may present evidence on behalf of the Town. An Owner/Occupant wishing to contest liability shall appear at the hearing and may

present evidence on his/her behalf. If the Owner/Occupant who received the citation fails to appear, the Citation Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes and this Ordinance. The Citation Hearing Officer may accept from such Owner/Occupant copies of any relevant investigatory and citation reports, and/or any other official documents by mail and may determine thereby that the appearance of such person is unnecessary.

- C. The Citation Hearing Officer shall conduct the hearing in the order and form, and with such methods of proof, as the Hearing Officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Citation Hearing Officer shall announce his decision at the end of the hearing. If the Citation Hearing Officer determines that the Owner/Occupant is not liable, the Citation Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Citation Hearing Officer determines that the Owner/Occupant is liable for the violation, the Citation Hearing Officer shall forthwith enter and assess the civil penalties, fines, costs and/or fees as provided by this Ordinance.
- D. If the Citation Hearing Officer's assessment is not paid on the date of its entry, the Citation Hearing Officer shall send by first class mail a notice of assessment to the Owner/Occupant found liable and shall file, not less than thirty (30) calendar days, nor more than twelve (12) months, after such mailing, a certified copy of the notice of assessment with the clerk of the superior court designated by the Chief Court Administrator together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same Owner/Occupant may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of the Citation Hearing Officer's record of assessment, as well as court costs, against such Owner/Occupant in favor of the Town. The Citation Hearing Officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution of such judgment may issue without further notice to the Owner/Occupant.
- E. An Owner/Occupant against whom an assessment has been entered pursuant to this Ordinance is entitled to judicial review by way of appeal in accordance with C.G.S. §7-152c(g).

**Recording of Lien.** Any unpaid civil penalty or other fine imposed pursuant to the provisions of this Ordinance, and any and all costs and expenses incurred by the Town for the enforcement of this Ordinance, shall constitute a lien upon the real estate against which the civil penalty or other fine was imposed from the date of such civil penalty or fine. Each such lien may be continued, recorded and released in the manner provided for in C.G.S. § 7-148aa. Each such lien shall take precedence over all other liens filed after July 1, 1997 and encumbrances, except taxes, and may be enforced in the same manner as property taxes.



**Removal or Remediation by Town.** If the hearing officer determines the Owner/Occupant is liable for the violation, the Town may cause or take such action as is necessary to correct the violation. All costs and expenses of such corrective action shall be a lien upon the real estate. The Blight Prevention Panel shall cause a certificate of lien to be recorded in the Town Clerk's office within sixty (60) calendar days after completion of such corrective action if all costs and expenses thereof are not reimbursed in full by said Owner/Occupant.

**§ 83-5. Other remedies.**

The provisions of this chapter shall be in addition to all remedies civil or criminal provided to the Town or its officials by any local, state or federal statute or regulation, including, without limitation, the provisions of the State Building Code, the State Fire Code and the State Public Health Code, Zoning Regulations or other sections of the Town Code. The election of the Town to pursue the remedies provided by this chapter shall not preclude the Town from pursuing any other remedies available to it.

- A. In addition to the remedies provided by § 83-4, if the Building Official or Fire Marshal determines that any premises are in an unsafe condition, or the Director of Health finds any premises unfit for human habitation or violates the Connecticut General Statutes governing public nuisances or the Zoning Enforcement Officer determines that Zoning Violations exist, the Building Official, Fire Marshal, Zoning Enforcement Officer or Director of Health may serve upon the owner of the premises a notice, detailing the condition deemed unsafe or constituting a threat to health, safety or general welfare, and specifying the required repairs or improvements to be made to abate the unsafe, unsightly or unhealthy condition. The notice may require that the unsafe, unsightly or unhealthy structure be demolished within a certain time period. The notice shall require that the owner of the premises declare immediately whether the terms of the order are accepted or rejected. The notice shall be delivered to the owner personally or sent by certified mail to the last known address of the owner. If neither method is successful, the notice shall be posted on the premises in a conspicuous place. In the event that the owner, agent, tenant or person in control fails to comply with the terms of the order, the Building Official, Fire Marshal, Zoning Enforcement Officer or Director of Health shall refer the matter to the Blight Prevention Panel, which may instruct the Town Attorney to take appropriate enforcement action in the courts, including, but not limited to, the commencement of an injunction action.

**B. Demolition.**

1. The Blight Prevention Panel shall order a premises to be demolished if it has been designated as unfit for human habitation, has been placarded as such, has been vacated, and has not been put into proper repair so as to rescind the

designation as unfit for human habitation and to cause the placard to be removed and is determined by said Panel not to warrant repair.

2. The owner of any premises which has been ordered demolished shall be given notice of this order in the manner provided for service of notice in this Ordinance and shall be given a reasonable time, not to exceed 120 days, in which to demolish such structure.
3. When the owner fails, neglects or refuses to demolish an unfit, unsafe or unsanitary premises within the requisite time, the Blight Prevention Panel may apply to a court of competent jurisdiction for a demolition order. The court may grant such order when no reconsideration or hearing on the matter is pending. The cost of such demolition shall create a debt in favor of the Town of Brookfield against such owner; such costs shall be recoverable in a civil action brought by the Town of Brookfield which shall possess all the rights of a private creditor.
4. Whenever a premises is demolished, whether carried out by the owner or by the Director of Health, such demolition shall include the filling in of the excavation on which the demolished structure was located in such manner as to eliminate all potential danger to the public health, safety and welfare arising from such excavation.
5. All demolition shall be preceded by an inspection of the premises by the Director of Health to determine whether or not extermination procedures are necessary. If the premises is found to be infested, appropriate rodent extermination to prevent the spread of rodents to adjoining or other areas shall be instituted before, during and after demolition.